



TEXAS DEPARTMENT OF INSURANCE

Division of Workers' Compensation - Medical Fee Dispute Resolution (MS-48)

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MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name

EcCare Health Centers
Gregory P. Ennis, M.D.

Respondent Name

Texas Mutual Insurance Co

MFDR Tracking Number

M4-17-1828-01

Carrier's Austin Representative

Box Number 54

MFDR Date Received

February 15, 2017

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "The liability question is related to...liability under EITHER Insurance Code §1305 OR Title 5 Labor Code...In order for a workers' compensation claim to be liable under the Workers' Compensation Network Act there are certain conditions that must be met by the Employer. When a dispute arises as to the employer meeting of those requirements that issue is adjudicated under chapter 410 Labor Code...In this case we have a decision and order at CCH which HAS NOT BEEN APPEALED by the carrier stating that the CARRIER IS LIABLE UNDER TITLE 5 LABOR CODE for this injured workers' ENTIRE CLAIM."

Amount in Dispute: \$650.00

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "The matter is not eligible for medical fee dispute resolution This claim is in Texas Mutual's Texas Star Network® (Exhibit A), the injured employee was notified of the Network (Exhibit B), and the provider is in the Texas Star Network® (Exhibit C)...Despite the requestor's contention, the matter did not involve a liability dispute...this filing is more than one year after the date of service."

Response Submitted by: Texas Mutual Insurance Co

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
September 17, 2015	99456 WP	\$650.00	\$650.00

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and applicable rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. Division CCH Decision and Order Signed January 31, 2017 by Hearing Officer Ken Wrobel
 - Contested Case: Claimant and EcCare Professional Assn. of Texas, P.A. Subclaimant v. Texas Mutual Insurance Company, Carrier
 - Notice Issued February 3, 2017: The carrier was ordered to pay benefits in accordance with the decision, those benefits, unless otherwise noted, include both indemnity and medical benefits
2. The insurance carrier reduced payment for the disputed services with the following claim adjustment codes:
EOBs provided that pre-date the Division Order of January 31, 2017
 - CAC-W3 – In accordance with 134.804, this bill has been identified as a request for reconsideration or appeal
 - CAC-193 – Original payment decision is being maintained.
 - CAC-243 – Services not authorized by network/primary care provider
 - 724 – No additional payment after reconsideration
 - 727 – Provider not approved to treat Texas Star Network Claimant.EOBs provided subsequent to the Division order of January 31, 2017
 - None
3. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.

Issues

1. Was this medical fee dispute request timely filed to the Division?
2. Are the payment denials asserted by Texas Mutual supported?
3. Is reimbursement due for the service in dispute?

Findings

On September 17, 2015 Gregory P. Ennis, M.D. (Dr. Ennis) performed an exam at the request of the injured employee's treating doctor to determine maximum medical improvement and impairment rating (MMI & IR). Texas Mutual Insurance Co (Texas Mutual) denied payment citing that Dr. Ennis was not authorized by the Texas Star Network to provide services to its Texas Star injured employee. Upon reconsideration, the carrier maintained its denial. In response to Texas Mutual's denial, Dr. Ennis filed for a contested case hearing (CCH) under Chapter 410 to resolve a question of whether Texas Mutual is liable for payment under the Labor Code as a result of the employer's failure to notify the injured employee of Network requirements.

A contested case hearing was held and the hearing officer issued a decision on January 31, 2017 in favor of Dr. Ennis. Texas Mutual was ordered to pay and was notified of the order on February 3, 2017. Dr. Ennis subsequently filed a medical fee dispute on February 15, 2017 in which he indicated that payment has not yet been received.

The following outlines the findings and decision of the medical fee dispute resolution program.

1. Was this medical fee dispute request timely filed to the Division?

At issue is whether an exception to one year filing deadline for medical fee dispute resolution applies here. The rule exception states, in pertinent part:

Rule §133.307(c)(1)(B)(i) A request may be filed later than one year after the date(s) of service if: (i) a related compensability, extent of injury, **or liability dispute under Labor Code Chapter 410** [emphasis added] has been filed, the medical fee dispute shall be filed not later than 60 days after the date the requestor receives the final decision, inclusive of all appeals, on compensability, extent of injury, or liability.

Texas Mutual argues that the exception does not apply. Specifically, the carrier states:

The requestor contends that the delay in timely filing was the result of a liability dispute under Texas Labor Code Chapter 410. However, that chapter applies to a proceeding before the Division to determine the liability of an insurance carrier for compensability for an injury...the requestor has provided no evidence of a denial on an explanation of benefits for compensability or liability.

The Division disagrees. Chapter 410 applies to resolution of other questions of liability such as those connected to certain Network requirements. Specifically, Texas Insurance Code 1305.103 (c) states that:

1305.103 An issue regarding whether a carrier properly provided an employee the information required by this subsection may be resolved using the process for adjudication of disputes under Chapter [410](#), Labor Code, as used by the department's division of workers' compensation.

Dr. Ennis pursued resolution of this question because failure of an employer to provide proper notice to the injured employee results in carrier **liability for payment of medical care** as stated under Texas Insurance Code Sec. 1305.005 (h):

1305.005 (h) An insurance carrier that establishes or contracts with a network is liable for the payment of medical care under the requirements of Title 5, Labor Code, for an injured employee who does not receive notice until the employee receives notice of network requirements under this section.

The Division's medical fee dispute program concludes that the exception to the one-year filing deadline under Rule §133.307(c)(1)(B)(i) reasonably applies to this medical fee dispute. The one-year filing deadline for medical fee dispute resolution was tolled while Dr. Ennis took the following steps for resolution of a liability issue directly related to the service in dispute.

- Dr Ennis filed a dispute under Chapter 410 on **July 21, 2016** to resolve a question of insurance carrier liability for the care he provided on September 17, 2015;
- a benefit review conference was held on **September 12, 2016** to mediate resolution of the disputed issues;
- the parties were unable reach an agreement and a contested case hearing was subsequently held on **January 23, 2017** to decide and resolve the liability dispute raised by Dr. Ennis;
- a CCH decision was issued on **January 31, 2017**;
- the CCH decision is final; and
- a medical fee dispute related to the CCH decision was filed on **February 15, 2017**.

The Division concludes that this medical fee dispute was timely filed.

2. Are the payment denials asserted by Texas Mutual supported?

Both the explanation of benefits provided by the parties, and Texas Mutual's March 7, 2017 response to the medical fee dispute indicate that Texas Mutual maintains that payment is not due because of the alleged applicability of certain requirements found under Texas Insurance Code 1305 and Texas Administrative Code Chapter 10. Texas Mutual states that "This is a Network claim" and further requests dismissal of the medical fee dispute asserting that "In this case, that complaint process is the appropriate administrative remedy to address fee payment matters related to health care certified networks."

The hearing officer in aforementioned Division CCH Order found that Network requirements did not apply and that the carrier is liable for payment under the Texas Labor Code. Consistent with the final Division CCH order, the Division's medical fee dispute program finds that Texas Mutual's denial reasons are not supported.

3. Is reimbursement due for the service in dispute?

Texas Mutual was ordered to pay benefits¹ in accordance with the above referenced Division CCH Decision and Order. Texas Mutual was notified and ordered to pay benefits on or about February 3, 2017. Texas Labor

¹ Texas Labor Code Sec 401.011 (5) "Benefit" means a medical benefit, an income benefit, a death benefit, or a burial benefit based on a compensable injury.

Code Section 410.208 and corresponding Texas Administrative Code §142.16 set out the requirement for the insurance carrier to comply with a final decision and order issued by a hearing officer.

Absent any evidence that Texas Mutual has paid in accordance with the Division's order, the division's medical fee dispute resolution program finds that the services are eligible for payment pursuant to applicable Division Rule at 28 Texas Administrative Code Sec. 134.204 as follows:

Billing Code	Description	Rule 134.204	MMI / IR Allowable	Total Due
99456 WP	MMI/IR performed by an examining doctor other than the treating doctor	Reimbursement (j)(1) = (j)(3)(C) MMI + (j)(4)(A) IR	\$350 MMI + \$300 Range of Motion 1 Body Area	\$650.00

Conclusion

For the reasons stated above, the Division finds that the requestor has established that reimbursement is due. As a result, the amount ordered is \$650.00.

ORDER

Based on the submitted information, pursuant to Texas Labor Code Sec. 413.031 and 413.019 (if applicable), the Division has determined that the requestor is entitled to additional reimbursement for the services in dispute. The Division hereby ORDERS the respondent to remit to the requestor the amount of \$650.00, plus applicable accrued interest per 28 Texas Administrative Code §134.130 due within 30 days of receipt of this Order.

Authorized Signature

Signature

Medical Fee Dispute Resolution Director

Date

YOUR RIGHT TO APPEAL

Either party to this medical fee dispute has a right to seek review of this decision in accordance with 28 Texas Administrative Code §133.307, 37 *Texas Register* 3833, applicable to disputes filed on or after June 1, 2012.

A party seeking review must submit a **Request to Schedule a Benefit Review Conference to Appeal a Medical Fee Dispute Decision** (form **DWC045M**) in accordance with the instructions on the form. The request must be received by the Division within **twenty** days of your receipt of this decision. The request may be faxed, mailed or personally delivered to the Division using the contact information listed on the form or to the field office handling the claim.

The party seeking review of the MFDR decision shall deliver a copy of the request to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §141.1(d).

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.